

# employee plans news

PROTECTING RETIREMENT BENEFITS THROUGH EDUCATING CUSTOMERS

Internal Revenue Service  
Tax Exempt and Government  
Entities Division

A Publication of Employee Plans

**[page 2](#)**

Relief for Relative Value Disclosures

**[page 2](#)**

Amendments: When to Adopt

**[page 3](#)**

To Sum it All Up: The 2005 Cumulative List

**[page 3](#)**

They're Here: The 2006 Dollar Limitations

**[page 4](#)**

Critical FewPoints...by Michael Julianelle

**[page 5](#)**

2006 EP Work Plan

**[page 7](#)**

New 401(k) Resource Guide

**[page 7](#)**

Web Spins

**[page 8](#)**

The Corner of Forms & Pubs

**[page 9](#)**

PBGC Insights

**[page 10](#)**

DOL Corner

**[page 11](#)**

2005: Was that a Year?

**[page 13](#)**

16th Annual SWBA/IRS Employee  
Benefits Conference Recap

**[page 14](#)**

Employee Plans Published Guidance

**[page 15](#)**

Benefits Conference of the South

**[page 15](#)**

Ringing in the New Year at the LABC

**[page 16](#)**

Calendar of EP Benefits Conferences

## New User Fee Schedule for 2006

There's a new user fee schedule for 2006. In [IR 2005-144](#), the IRS announced increases in selected user fees – including fees for letter rulings and determination letters for Employee Plans (EP) and Exempt Organizations (EO) – for 2006.

The Office of Management and Budget has directed federal agencies to charge user fees reflecting the full cost of providing goods or services when the benefits to the recipient otherwise exceed those received by the general public. Many IRS user fees had remained unchanged for years; the new fee structure will more accurately reflect the resources expended. Although the fees have increased, the IRS continues to be sensitive to the financial resources of smaller organizations.

The new fee schedule takes effect in two phases.

Phase one – Effective February 1, 2006:

- EP letter rulings fees, which currently range from \$95 to \$5,415, will increase to \$200 to \$14,500.
- EO letter ruling fees, which previously ranged from \$155 to \$2,570, will increase to \$275 to \$8,700.

Phase two – Effective July 1, 2006:

- Under the revised and centralized EP determination letter program, fees for opinion and advisory letters and determination letters involving Forms 5300, 5307 and 5310, which currently range from \$125 to \$6,500, will increase to \$200 to \$15,000.
- EO fees for determination letters and requests for group exemption letters, which currently range from \$150 to \$500, will increase to \$300 to \$900.

Other information to note:

- EP compliance fees and compliance correction fees under the Employee Plans Compliance Resolution System (EPCRS) are not included in this procedure and remain at their current levels.
- EO will not be issuing rulings on:
  - EO joint ventures with a for-profit organization
  - Qualifications of state run programs under Code section 529.
- More information on increases in user fees will be published in Revenue Procedures 2006-1 and 2006-8, which will appear in Internal Revenue Bulletin 2006-1 on January 3, 2006.

See comparison charts for more information on how the old and new user fees differ for [exempt organizations](#) and [retirement plans](#).

## Relief for Relative Value Disclosures

Here's a description of the relief that is expected to be given for 2006 for plan sponsors that must provide relative value disclosures required under section 1.417(a)(3)-1 of the Income Tax Regulations. These [regulations](#) are effective for annuity starting dates on or after October 1, 2004 for certain distributions and for annuity starting dates on or after February 1, 2006 for other distributions. This relief is needed because the issuance of final amendments to these regulations will not occur by the end of 2005.

Code section 417(a)(3) provides that a plan must provide a written explanation to each participant, within a reasonable period before the annuity starting date, that includes, among other information, the terms and conditions of a qualified joint and survivor annuity (QJSA). Final regulations under section 417(a)(3) regarding disclosure of the relative value and financial effect of optional forms of benefit as part of QJSA explanations were published on December 17, 2003. The 2003 regulations are generally effective for QJSA explanations provided with annuities starting on or after October 1, 2004.

[Announcement 2004-58](#) postponed the effective date of the 2003 regulations for certain QJSA explanations. [Proposed regulations](#) issued on January 28, 2005 relating to the postponement provide that the 2003 regulations are generally effective for QJSA explanations provided for annuities starting on or after February 1, 2006. However, the proposed regulations retained the October 1, 2004, effective date under the 2003 regulations for explanations with respect to any optional form of benefit that is subject to the requirements of section 417(e)(3) if the actuarial present value of that optional form of benefit is less than the actuarial present value of the QJSA. Thus, the reasonable, good faith standard described in the following paragraph is not available for such optional forms of benefit that are less valuable than the QJSA.

Regulations which finalize the 2005 proposed regulations are not expected to be published before the end of 2005. Therefore, the final regulations when published are expected to provide that a reasonable, good faith effort to comply with the final regulations will be deemed to satisfy the requirements of the regulations for QJSA explanations provided before January 1, 2007 (other than those cases where the actuarial present value of any optional form of benefit that is subject to the requirements of section 417(e)(3) is less than the actuarial present value of the QJSA). The final regulations are expected to provide that, for this purpose, a reasonable, good faith effort to comply with the final regulations includes substantial compliance with the provisions of the 2003 regulations. Accordingly, any QJSA explanation provided before January 1, 2007 will be deemed to satisfy the provisions of the final regulations if it is in compliance with the 2003 regulations. •

## Amendments: When to Adopt

In general, [Notice 2005-95](#) reminds plan sponsors that the deadlines set forth in section 5.05 of [Rev. Proc. 2005-66](#) must be met unless otherwise stated in a specific statute, regulation or published guidance. Notice 2005-95 provides transitional relief for the adoption of certain plan amendments and explains what impact, if any, Rev. Proc. 2005-66 had on statutory, regulatory, and published guidance. Specifically, Notice 2005-95:

- Authorizes the use of either the 401(k) plan safe harbor notice requirement in the final 401(k) and 401(m) regulations or in Q&A-8 of [Notice 2000-3](#) for plan years beginning before 2007;
- Gives transitional relief of the later of the deadline found in Rev. Proc. 2005-66 or December 31, 2005 to adopt an amendment reflecting the final retroactive annuity starting date regulations when a plan sponsor put into effect the final regulations in 2004 and 2005;
- Gives transitional relief of the later of the deadline found in Rev. Proc. 2005-66 or December 31, 2005 to adopt an interim amendment reflecting the automatic rollover requirements under [Notice 2005-5](#);
- Gives transitional relief to adopt a discretionary amendment reflecting the final 401(k) and 401(m) regulations when a plan sponsor uses the final regulations prior to the effective date; and

*Practitioners have asked how to comply with the relative value disclosure rules in 2006.*

*Reasonable, good faith compliance with the 2003 Relative Value Regulations is expected to be allowed for 2006, under regulations to be published in early 2006.*

*It's that time of the year and the guidance pieces are flying out the doors. There are new rules out on Relative Value, Adopting Amendments and more, with even more to come.*

## Amendments: When to Adopt *continued from page 2*

- Generally clarifies the deadline to adopt an amendment reflecting the final required minimum distribution regulations for defined benefit plans as the end of the EGTRRA remedial amendment period.

Other amendments mentioned include:

- Pension Funding Equity Act of 2004;
- Katrina Emergency Tax Relief Act of 2005;
- Suspension of benefits in [Rev. Proc. 2005-76](#);
- Hurricane Katrina relief in [Announcement 2005-70](#); and
- Professional employer organizations in [Rev. Proc. 2002-21](#) and [Rev. Proc. 2003-86](#).

The IRS intends to issue a sample amendment for designated Roth contributions after the publication of the final 401(k) regulations as amended for designated Roth contributions.

Marty Pippins, Manager of EP Technical Guidance and Quality Assurance, said, "There are lots of amendments mentioned in Notice 2005-95, and the list was intended to be broadly inclusive. Please don't hesitate to give us [feedback](#) on the usefulness of this notice."

## They're Here: The 2006 Dollar Limitations!

To quote the Scarecrow: "Oh joy! Rapture!" They're here: the 2006 retirement plan dollar limits are now available. Once again, we've gathered all the dollar limit numbers you know and love – along with perhaps some strangers – and put them on the [Retirement Plans Community web page](#).

We've got dollar limits starting in 1989 and continuing all the way through 2006. Or, if you just want to see the 2006 numbers, click on [2006 COLA News Release](#).

We've got all your favorite limits. You'll discover such goodies as the deferral limit for 401(k) plans (\$15,000) and the section 401(a)(17) compensation limit (\$220,000). We also include – as part of this special offer – some lesser known figures. For example, the chart has the compensation amount under section 408(k)(2)(C) for SEPs (\$450 in 2006 and unchanged from 2005) and the amount for determining who is a "Key Employee" – as defined in Internal Revenue Code section 416 – increased in 2006 from \$135,000 to \$140,000.

So, if you want to see if your 2006 COLA is flat or bubbly, click on [COLA Table](#) or go to the [Retirement Plans Community web page](#), click on "Published Guidance" and go to "Cost-of-Living-Increases."

Finally, if you act now, we'll include a bonus link to the Social Security Administration. Just click on [2006 SSA Limits](#) and you'll get extras like the 2006 taxable wage base (\$94,200, up from \$90,000 in 2005) and much, much more!

## To Sum it All Up: The 2005 Cumulative List

In [Rev. Proc. 2005-66](#), the IRS said it intends to publish annually a Cumulative List of Changes in Plan Qualification Requirements (Cumulative List). [Notice 2005-101](#) contains the 2005 Cumulative List.

Plan sponsors should use the 2005 Cumulative List when they're drafting their single-employer, individually-designed plans for submission to the IRS for review. The individually-designed plans must be restated and should include all applicable plan qualification requirements listed on the 2005 Cumulative List and all qualification requirements in effect, or guidance published before the issuance of the 2005 Cumulative List, whether or not it's included in that Cumulative List. The 2005 Cumulative List updates the plan qualification requirements first listed on the 2004 Cumulative List for defined contribution plans and adds for 2005 the plan qualification requirements for employee stock ownership plans (ESOPs) and defined benefit plans.

The 2005 Cumulative List is being released in conjunction with the opening of the

determination letter program for the initial five-year remedial amendment cycle (that is, the EGTRRA remedial amendment period) for Cycle A. Cycle A applies to single-employer, individually-designed plans where the last digit of the employer identification number is 1 or 6.

The submission period for the initial five-year remedial amendment cycle (Cycle A) for single-employer, individually-designed plans begins February 1, 2006 and ends January 31, 2007.



## Critical Few Points...by Michael Julianelle

Welcome back to my little corner of the newsletter. I would like to take this time to wish all of you a safe, happy, and joyous holiday season. I also wish your 2006 brings you enjoyment and pleasure as well.

My gift to you includes some updates and reminders about some items you have read in prior editions of *Employee Plans News*. The first reminder is to ask for your feedback and/or questions about this article or suggestions for future articles. You can do so by e-mailing me at

[RetirementPlanComments@irs.gov](mailto:RetirementPlanComments@irs.gov).

### Critical Few

I will always provide you with my Critical Few as these are my most important items for this year. The highlighted items are discussed below:

- Expand Compliance Contacts
- Improve Examination Timeliness
- **ATAT**
- Monitor Pension Funding
- **Expand Focused Examination Concept**

### ATAT – Abusive Tax Avoidance Transactions

The **December 1 Special Edition** offered information on **Announcement 2005-80**, which provides taxpayers with a one-time opportunity to voluntarily come forward and resolve certain listed and potentially abusive transactions.

Of the 21 transactions eligible for settlement under this initiative, seven are either directly related to retirement plans or would be of interest to the Retirement Plans Community. By visiting [www.irs.gov](http://www.irs.gov), you can receive:

- An **overview** of Announcement 2005-80;
- A **fact sheet** on the settlement initiative; and
- The **form** to enter into the settlement initiative.

I cannot stress enough to you the importance of reading through this announcement and applying for this settlement initiative. This initiative will close after January 23, 2006; however, my staff will continue to identify and examine abusive activities in retirement plans throughout the coming year.

### Expand Focused Examination Concept

I discussed my philosophy for this concept in the **Fall 2005 issue**. I wanted to provide you an update on where we are with this concept and to inform you of a new approach agents will be taking when contacting you about an audit.

We will begin carrying out this concept next month. All of my agents received the training necessary to begin examining cases under this concept. I shared the same philosophy with them that I shared with you in the prior newsletter. They were given the procedures and responsibilities that come with the execution of this new idea. The agents also had time to discuss and practice the philosophies and responsibilities associated with this concept.

A new procedure will be employed at the start of the focused examination concept that will affect you. Agents will request a copy of the plan document when they notify you about the examination of the return. After you submit the plan and any amendments to the plan, the agent will perform the necessary review of the plan and then send you an appointment letter requesting items necessary to resolve the issues identified.

I would welcome all positive comments as well as ideas for improving this focused examination process. E-mail me at [RetirementPlanComments@irs.gov](mailto:RetirementPlanComments@irs.gov).

## Howdy Pardner!

EP Customer Education & Outreach – the group responsible for this very newsletter – has a new EP National Customer Partnership Analyst: Ron Itzkowitz. Ron brings a wealth of EP knowledge and examination experience to his new position. He will coordinate with outside national partners and stakeholders with primary focus on projecting EP examination/enforcement results to the retirement plans community plus he'll market our print and web-based products (as outlined in **Publication 4460**, *The Retirement Plan Products Navigator*).

One of his first efforts in the coming months will be contacting organizations to establish new or renew partnerships and solicit mutual opportunities to partner. As a newsletter subscriber, we would welcome your input and suggestions on organizations or contacts that we should partner with, especially those relating to Plan Sponsor/Employer and Plan Participant/Employee customer segments.

You can contact Ron at [RetirementPlanComments@irs.gov](mailto:RetirementPlanComments@irs.gov).

## Other Information – Hiring & Training

To wrap up this edition, I wanted to inform you on the latest with my hiring and training efforts.

My trainees have completed their examination training much earlier than in past years and have begun their On-The-Job Training. This means they will be performing examinations of returns with assistance of an experienced agent until they go back for their next level of training, which will occur later in 2006. As I have mentioned earlier here and in my speeches, I will continue to strengthen my work force as I expand our enforcement presence in the Retirement Plans Community. •

### How to Subscribe to Employee Plans News

The *Employee Plans News* will be issued only through IRS e-mail. For your free subscription, please go to the [Retirement Plans Community web page](#) and subscribe online by selecting “Newsletters” under “Retirement Plans Community Topics.” All editions of the *Employee Plans News* are archived there.

For your convenience, we have included Internet links to referenced materials throughout the *Employee Plans News*. These links are identified by blue and underlined text.

## 2006 EP Work Plan

The **FY 2006 EP Work Plan** was issued on October 6, 2005. Each annual work plan gives EP employees guidance on the major initiatives, operating priorities, goals and objectives for the coming year.

Carol Gold, Director of EP, said, “There are a number of challenges that our organization faces in FY 2006: combating abusive tax avoidance transactions involving retirement plans; reducing the inventory of voluntary compliance submissions; and improving our ability to monitor pension funding through coordination with the PBGC and DOL. In addition to dealing with our organizational challenges, we expect to have limited hiring authority and a reduction of training travel funding. However, our core training requirements and case-related travel will not be adversely impacted.”

The work plan is designed as a map of all EP activities planned for the year. Benefits practitioners can also use the work plan to see where EP priorities and initiatives are.

EP shares the IRS's three strategic goals of: improving taxpayer service; enhancing enforcement of the law; and modernizing the IRS through its people, processes and technology. EP efforts to achieve these goals will focus on the following eight Operating Priorities:

- **Detect and Deter Abusive Tax Schemes through Accelerated Enforcement Actions and Educational Strategies** – EP will continue to take an aggressive stance toward all identified abusive tax avoidance transactions. Examinations are continuing and [Announcement 2005-80](#) has been released which provides taxpayers with a one-time opportunity to voluntarily come forward and resolve certain listed and potentially abusive transactions. In addition, CE&O will be refining and updating the abusive transaction information on the [Retirement Plans Community web page](#).
- **Coordinate Information and Processes with DOL and PBGC to Monitor Pension Funding** – Plan funding issues continue to be in the news, whether it's the current problems of the airline industry or discussions of potential legislative actions to provide funding relief. We will continue to partner with the PBGC and DOL to discuss information sharing and ideas to improve inter-agency coordination.
- **Expand the Focused Examination Concept to All Examinations, to Focus on Key Examination Activities and Issues** – This initiative is designed to allow agents to more effectively and efficiently perform an audit by focusing on key issues by plan type and industry. Mandatory pre-determined issues will be identified, while still allowing the agent the flexibility of expanding the scope if necessary.
- **Refine Compliance Risk Assessments/Market Segment Analysis and Begin Classifying Examinations Based on this Data** – During the year we will finish the assignment of the examinations needed to complete the risk assessment baseline (approximately 3,000 returns). In addition, targeted exams will be conducted in market segments where the baseline data indicated potential non-compliance. The results of these exams will be used to guide the future direction of examination resources.

## 2006 EP Work Plan *continued from page 5*

- **Enhance Enforcement through the EP Compliance Unit** – The EPCU was formed during FY 05 and much of the staffing is now on-board. The EPCU will allow for the resolution of many problems or questionable items without the necessity of an examination. Among the projects to be run through this unit are:

- Minimum funding compliance checks;
- EPCRS program resolution compliance checks; and
- Form 5330 compliance checks.

The EPCU will also be expected to do expert level data analysis to determine appropriate examination strategies and ways to improve the use of existing resources. While this unit will be managed within Examination, the staff will support **all** of EP.

- **Communicate Enforcement Results to Specific Customer Segments via Educational Events, IRS.GOV and Other EP Outreach Products** – CE&O will use various communication options to market the availability of examination and enforcement content on the newly formatted Retirement Plans Community web page at irs.gov. This will include the posting of information on the results of the risk assessment examinations and additional compliance trends and tips. CE&O will also support EP resources in the communication of examination and enforcement content to the public.
- **Work with DOL to Improve Form 5500 Information Processing and Identify Other Sources of Enforcement Information** – Because of the costs associated with the processing of the Form 5500 returns, we will continue to partner with DOL to review the data being requested to determine what information can be eliminated or consolidated. We will also work with DOL on an electronic filing initiative to: decrease processing time frames and cost; reduce the burden on filers; improve compliance; and, enhance public disclosure capabilities.
- **Reduce the Inventory Backlog of Voluntary Compliance Submissions through Improved Work Processes and the Use of Resources throughout Rulings and Agreements** – Despite case processing efficiencies and the support from the use of Technical resources, the inventory of VC submissions continues to increase. Work processes will continue to be analyzed to determine where further improvements can be made, and resources from Determinations will also be applied to further support the VC staff.

Finally, Ms. Gold thanked EP employees for their contributions to EP's progress in FY 2005, "Among our more significant accomplishments were:

- Actions taken to assist those that were impacted by Hurricane Katrina, including providing authority for retirement plans to make loans and hardship distributions to Hurricane Katrina victims, and postponing the time frame for affected employers to make plan contributions;
- Enacting the Staggered Amendment program for determination letters and the combining of the Master & Prototype and Volume Submitter programs;
- Formation of the Employee Plans Compliance Unit;
- Hiring and training of more than 50 new technical employees;
- Processing the significant volume of GUST amendment applications;
- Streamlined case processing procedures to increase the issuance of Voluntary Compliance statements;
- Enhancing the EP web page to better serve the retirement plans community; and
- Completing many customer satisfaction projects such as the new EP Pub 1, EP Determination Letter Resource Guide and EP Examination Process Guide.

Thank you for the many ways you have contributed to progress in EP in FY 2005. None of our success could be achieved without an engaged workforce."

The entire text of the work plan can be found at the [Retirement Plans Community web page](#) by selecting "Benefits Practitioner" and then clicking on "EP Work Plan."

*The FY 2006 EP Work Plan:  
8 Operating Priorities;  
3 IRS Strategic Goals;  
And a Partridge in a Pear Tree.*

*Find out what EP will focus on in the coming year.*



## New 401(k) Resource Guide

The ever-growing Retirement Plans Community web page has now added a [new resource guide](#) for 401(k) plan sponsors and plan participants. Members of the 401(k) Compliance Planning Group (consisting of employees throughout EP), who continuously address compliance issues and recommend items for the internet to assist the Retirement Plans Community, developed this resource guide so that plan sponsors and participants will have access to 401(k) plan information all contained in one place.

For plan sponsors, the guide provides information on:

- 401(k) plan overview;
- Starting up your plan;
- Plan qualification requirements;
- Filing requirements; and
- Other items.

For plan participants, the guide contains information regarding:

- Summary plan descriptions;
- Interested parties;
- Limitation on elective deferrals;
- General distribution rules; and
- Much more.

Is there something missing from here you would like to have added? Please contact us at [RetirementPlanComments@irs.gov](mailto:RetirementPlanComments@irs.gov). This guide is here for you and we would like to make it as user-friendly as we can for you. Let us know your thoughts!•

## Timing is Everything

“Timing is Everything” is a one-page flyer designed for employers to share with their employees and provides plain-language, bullet-point information about retirement. Each flyer is part of the [Retirement News for Employers](#) electronic newsletter designed for the small business owner.

Employers can print the “Timing is Everything” flyer and include it in their employees’ pay envelopes or post it on a bulletin board – and the flyer looks good whether it’s printed in color or in black & white. Employers can even use the flyer in company e-mails or newsletters.

Each “Timing” flyer will have important tips for employees on retirement issues. We’ll build an online archive of linkable “Timing” flyers where viewers can click on linked items in each flyer and find additional info. You’ll find the archive in both the “Plan Sponsor/Employer” and “Plan Participant/Employee” sections of the [Retirement Plans Community web page](#).•

## Web Spins – The Retirement Plans Site

We’re back: **Web Spins** – the column that takes you for a quick spin around the [Retirement Plans Community web page](#). This edition’s column takes a sampling from the sleigh-full of retirement plan topics.

- **Part Deux of “Does This Page Make Me Look Taller?”** – The main [IRS web site](#) and the [Retirement Plans Community web page](#) each have a new look. Thanks to public feedback, we’ve made changes that’ll make navigating our part of the web even easier. When you get to the [Retirement Plans Community web page](#), you’ll discover links to specific content for Benefits Practitioner; Plan Participant/Employee; and Plan Sponsor/Employer. The site’s search functionality has also been upgraded to increase search result accuracy and usability. Give us a spin.
- **Speaking of New Content** – Under the newly re-designed [Retirement Plans Community web page](#), you can now find retirement information designed and written for the Plan Participant/Employee customer segment. Among the information topics you’ll find are pubs and forms along with Frequently Asked Questions aimed at participants and employees. EP will continue

adding to and improving the material we have posted. And if you don’t find what you’re looking for, let us know at [RetirementPlanComments@irs.gov](mailto:RetirementPlanComments@irs.gov).

- **403(b) or Not to 403(b)** – The [Retirement Plans Community web page](#) now has two online versions – featuring lots of links – of [Publication 4482](#), *403(b) Tax-Sheltered Annuity for Participant*, and [Publication 4483](#), *403(b) Tax-Sheltered Annuity Plan for Sponsor*. Each version provides detailed information from the examination guidelines and other publications for selected underlined topics in each publication. Truly, everything you wanted to know about 403(b) plans but didn’t know where to find it.•



## The Corner of Forms & Pubs

Welcome back to the Corner of Forms & Pubs – the EP version of Hollywood & Vine. The information here at the Corner is brief and topics needing further details will get their own full-length articles.

### New Form

The IRS is drafting **Form 8915**, *Qualified Hurricane Katrina Retirement Plan Distributions and Repayments*, which will be used by taxpayers to report distributions and determine the amount included in income. The new form should be available sometime after January 1, 2006 by calling (800) TAX-FORM (829-3676).

### Pub Update

In keeping with our promise to supply basic information on different types of retirement plans, here are links to the five new publications we highlighted in the Fall 2005 edition of the *Employee Plans News*:

### Welcome Back!

Karen Krist Justesen is back at EP in the new position of Field Supervisory Actuary in EP Exams. Karen has been a pension actuary for more than 30 years with experience in consulting firms large and small.

From 1989 to 1991, Karen was the first Visiting Actuary in EP. Most recently, Karen was the Chief Negotiating Actuary at the PBGC.

From 2000 to 2003, she lived in Copenhagen, Denmark, working as a private pension consultant, studying Danish, and learning what it feels like to be an immigrant. •

- **Publication 4333**, *SEP Retirement Plans for Small Businesses*, is a customer education and outreach tool designed for small business owners and tax practitioners with clients that may be able to start or already have a Simplified Employee Pension (SEP) plan. It provides guidance on the establishment and operation of such plans and was produced in conjunction with the U.S. Department of Labor.
- **Publication 4460**, *The Retirement Plan Products Navigator* highlights many of the publications and brochures designed for small business owners. It “maps out” resources that would help in the selection, establishment and maintenance of the *right* retirement plan.
- **Publication 4482**, *403(b) Tax-Sheltered Annuity for Participant*, is directed at participants in a 403(b) annuity who are interested in learning more about the basic provisions and requirements in the operation of their plan along with pitfalls common with many 403(b) annuities.
- **Publication 4483**, *403(b) Tax-Sheltered Annuity Plan for Sponsor*, is directed at plan sponsors/employers who are interested in learning more about a 403(b) annuity plan, the operational mistakes common to many of these plans, and how to avoid and correct them.
- **Publication 4484**, *Choose a Retirement Plan for Employees of Tax-Exempt and Government Entities*, is designed for plan sponsors/employers of tax-exempt organizations and government entities who are interested in establishing a retirement plan for their employees. It contains a chart that highlights the different types of plans available and key features specific to each plan.

In addition, we’ve updated the two following publications:

- **Publication 3998**, *Choosing a Retirement Solution for Your Small Business*, is designed for tax practitioners with clients that may be able to sponsor a retirement plan. It contains a chart that highlights the primary types of retirement plans and key features specific to each type of program. It was produced in conjunction with the U.S. Department of Labor.
- **Publication 4222**, *401(k) Plans for Small Businesses*, is designed for small business owners and tax practitioners with clients that may be able to start or already have a 401(k) plan. It contains basic information dealing with the establishment and operation of 401(k) plans, including highlights of the basic types of 401(k) plans. It was produced in conjunction with the U.S. Department of Labor.

All of these new publications are available on the [Retirement Plans Community web page](#) by clicking on “EP Forms & Publications” under the “Retirement Plans Community Topics” section. •



## PBGC Insights

*This edition of PBGC Insights has news on mortality tables and using e-filing.*

### New Mortality Assumptions for Valuing Benefits Take Effect on January 1

On December 2, 2005, the PBGC published a **final regulation** updating mortality assumptions for valuing benefits in PBGC-insured single-employer plans that terminate in distress or involuntary terminations. The final rule is effective for terminations occurring on or after January 1, 2006.

The PBGC uses the valuation rules to determine: (1) The extent to which participants' benefits are funded under the allocation rules of ERISA section 4044; (2) whether a plan is sufficient for guaranteed benefits; and (3) how much an employer owes the PBGC as a result of a plan termination under ERISA section 4062. Employers must use these rules to determine the value of plan benefit liabilities in annual reports required to be submitted under ERISA section 4010, and may use these rules to ensure that plan spin-offs, mergers, and transfers comply with Internal Revenue Code section 414(l).

Since 1993, the PBGC has based its mortality assumptions on GAM-83. This final rule updates those assumptions by replacing a version of the GAM-83 Tables with a version of the GAM-94 Tables. In addition, the final rule provides a projection scale making the tables self-updating. Mortality will be projected, using Scale AA, to the year of the benefit valuation plus an additional 10 years to approximate the duration of liabilities in terminating plans.

The updated mortality assumptions will better conform to those used by private sector insurers in pricing group annuities. Because the updated mortality tables reflect improvements in mortality, the PBGC's derived interest factors are expected to be approximately 50–100 basis points higher under the new tables.

### PBGC Encourages Use of My PAA Accounts for Premium E-Filing

The PBGC issued a proposed rule on March 9, 2005, that would require premium declarations to be filed electronically. The proposed rule would have made the e-filing requirement effective for large plans (those with 500 or more participants for the prior plan year) starting January 1, 2006, and for all other plans starting in 2007.

The PBGC has reviewed comments on the proposed rule and expects to publish a final rule on mandatory premium e-filing in the months ahead. However, the final rule will not be effective for large plans as of January 1, 2006, as was proposed originally. The effective date for large plans has not yet been decided, but it is likely to be mid-year. It is still expected that all plans will be required to file electronically starting in 2007. When the final rule is published, the PBGC will publicize the premium e-filing requirements, including the applicability provisions. The rule will also be available on the **[PBGC's web site](#)**.

The PBGC encourages premium filers to start to prepare now in anticipation of mandatory e-filing starting in 2006. This would be an opportune time for pension professionals and plan filers to work together to determine the e-filing option(s) that work best for them. Here is some general information to help you get started:

- To use My PAA to e-file a plan's premium filing, one person associated with the plan (whom PBGC calls "the filing coordinator") must first register for a My PAA account (i.e., set up a user ID and password). The filing coordinator is the person who coordinates timely submission of the plan's premium filings and agrees (with the plan sponsor) to perform My PAA administrative tasks for the plan (e.g., setting up the plan's filing team if additional people are involved).

#### CONTACTING EMPLOYEE PLANS

The *Employee Plans News* welcomes your comments about this issue and/or your suggestions for future articles.

Send comments/suggestions to:

EP Customer Education & Outreach  
SE:TEP:CEO  
1111 Constitution Avenue, N.W., PE-4C3  
Washington, D.C. 20224

or FAX (202) 283-9525

or E-Mail: [RetirementPlanComments@irs.gov](mailto:RetirementPlanComments@irs.gov)

For **EP Taxpayer Assistance**:

**For retirement plans technical and procedural questions:**

Please call (877) 829-5500

Or visit the EP Customer Account Services section at [www.irs.gov/ep](http://www.irs.gov/ep).

**For questions relating to retirement income, IRAs, Roth IRAs, educational IRAs, medical savings accounts and section 125 cafeteria plans:**

Please call (800) 829-1040

For further **Employee Plans Information**: Go to [www.irs.gov/ep](http://www.irs.gov/ep).

- Once the filing coordinator has registered for an account, he/she will initiate the account registration process for other practitioners associated with his/her plan by inviting them to join that plan's e-filing team.
- Each person only registers for an account once. The user ID and password set up during registration is used for all plans and premium e-filings. In other words, you will use this user ID and password to access your account to which you can add plans and other filing team members, where appropriate.
- You now have more payment options. Payments may be made online using My PAA (ACH, internet check, or credit card) or submitted outside of the My PAA application (paper check or Fed wire).
- Once you have set up an account, you can use one or both of the following My PAA e-filing options:
  - Option 1: Use the My PAA data entry and editing screens to create and submit Premium Filings. These screens walk you through a step-by-step process for entering your plan's filing data that is consistent with the existing premium forms. Once you enter this data, you have created a filing that can be electronically edited, routed, signed and submitted to PBGC. Note that each My PAA reviewer and signer needs his/her own user ID and password.
  - Option 2: Use My PAA to upload premium filings created with private-sector software that has been updated to meet PBGC's requirements. My PAA allows you to "upload" a premium filing created with compatible private-sector software (filings are saved by your software as XML files that meet PBGC's standards). Note that only the person who uploads the filing needs a user ID and password. If you are interested in this option or unsure whether your software is updated to support this e-filing option, please contact your software vendor/developer.

For more information, click on [My PAA](#).

## **DOL Corner**



Happy holidays from the Department of Labor's Employee Benefits Security Administration (DOL/EBSA). It has been a successful year for DOL/EBSA in expanding our compliance assistance guidance, education and outreach. We look forward to continuing to provide you with new compliance assistance tools and guidance in the new year.

### **Web Site Providing Contact Information for Plan Sponsors in Areas Impacted by Hurricanes Katrina and Rita**

DOL/EBSA launched a [web site](#) providing contact information on employee benefit plan sponsors whose operations have been disrupted by Hurricanes Katrina and Rita. Employers who sponsor benefit plans are being encouraged to update their contact information with DOL/EBSA if it has changed. This information will allow employees, plan participants and their families, as well as the many other support organizations assisting victims of the hurricanes, to reach plan administrators with questions and information related to their retirement and health benefits. The web site contains a searchable database with pre-hurricane contact information from Form 5500 Annual Reports previously filed. Employers/plan sponsors who wish to update or correct their contact information on this site may do so by calling toll free (866) 444-EBSA (3272) or by submitting a Verification of Contact Information Form found on the web site.

### **Guidance Related to Katrina Emergency Tax Relief Act of 2005**

DOL/EBSA, with the IRS, announced guidance on November 30, 2005, for employers and plan officials relating to the Katrina Emergency Tax Relief Act of 2005 (KETRA) which increases the amount of loan distributions permitted through 401(k) and similar plans to participants affected by Hurricane Katrina.

Under KETRA, participants adversely affected by Hurricane Katrina receive special tax treatment for certain qualified plan distributions. KETRA also increases the limits under the Internal Revenue Code on the amounts of plan loans that may be made to participants affected by the hurricane. The new law covers eligible distributions made between August 25, 2005, and January 1, 2007. The agencies are issuing guidance for employers and individuals relating to the application of the distribution and loan provisions of KETRA.

As stated in IRS Notice 2005-92, DOL/EBSA will not treat any person as having violated the provisions of Title I of the Employee Retirement Income Security Act, including the requirements that plan loans be available on a reasonably equivalent basis and be adequately secured, solely because they made a plan loan to a qualified individual in compliance with the provisions of KETRA. IRS Notice 2005-92 explains the circumstances under which distributions and loans can be made from a plan to participants and beneficiaries affected by the hurricane.

[IRS Notice 2005-92](#) is available online as is the [DOL/EBSA announcement](#).

### **Electronic Filing of Form 5500 Annual Reports**

DOL/EBSA posted on its web site public comments on a proposed regulation published in the Federal Register on August 30, 2005, that would require plans to file the Form 5500 Series report electronically.

The proposed regulation would apply to all employee benefit plans required to file Form 5500 reports with DOL. In conjunction with this regulatory initiative, DOL/EBSA will update its current forms processing system – known as EFAST – to ensure that plans and service providers have secure internet-based methods for transmitting filings.

In addition, DOL/EBSA, along with the IRS and PBGC, will propose revisions to the Form 5500 to streamline and improve the information filed by plans. The revised forms are expected to be published for public comment in the near future.

The [proposed regulation](#) is available on DOL/EBSA's web site and so are the [comments](#).

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## **2005: Was that a Year?**

Another year, another year filled with retirement plan news. Congress debated several pension funding reform bills. The worst hurricane season on record caused national and international heartbreak and produced heart-touching displays of generosity including volunteers from the IRS and special disaster relief provisions for retirement plan sponsors and participants. Meanwhile, deferred compensation plan rules, Roth 401(k) provisions and abusive tax avoidance transactions continue to generate discussion in the retirement plans community.

So...without further ado...here is our month-by-month look at some of the highlights of 2005, retirement-style:

### **January:**

The Administration proposes its plan to reform the private-sector defined benefit plan system including ideas on improving funding, enhancing PBGC's funding and bankruptcy provisions. Congressional pension bills remain in the news throughout the year.

At the annual LA Benefits Conference, Steve Miller, Commissioner, TE/GE, delivers a strong message on compliance and builds a case for a reinvigorated EP enforcement program. EP will announce new examination and enforcement programs throughout 2005.

### **February:**

Rollover: It turns out that old IRAs – unlike old dogs – can learn new tricks. Automatic rollover provision rules are announced in [Notice 2005-5](#).

New and Improved! Really – EP opens its defined contribution plan M&P and VS Plan Program. The new program features streamlined procedures, expanded eligibility and floor mats.



**March:**

Set Phase(r) on Stun: The IRS holds a public hearing on a proposed regulation that would permit a retirement plan to establish a phased retirement program.

Paul Shultz, Director of EP Determinations Design, retires. Mr. Shultz oversaw the metamorphosis of the EP Determination Letter Program and was last seen heading toward a favorite fishing hole.

EP Examinations produces an External Guide for members of the benefits community. The Guide explains the audit process, provides compliance assistance and gives lots of online resources.

**April:**

All GUST determination letter requests have been screened. There is much rejoicing.

And 6 Shall Become 5: EP and EO Examinations are realigned and go from six areas to five areas.

Time to Catch Up? The IRS issues [Rev. Proc. 2005-23](#), which limits the application of the decision in the *Heinz* case.

As part of National Small Business Week, EP showcases its numerous printed and online publications designed for small-business owners.

**May:**

Ronald Reagan was President, cell phones were the size of shoe boxes and hair bands were in. The time: the early 1980s; the significance: this was the last time the 415 regs were all in one place till now.

The [Retirement News for Employers](#) – an online newsletter aimed at the small business community – turns one year old. Joyous celebrations abound throughout the web.

**June:**

The 2005 IRS Nationwide Tax Forums open in San Francisco. EP topics are “[About Your Retirement](#)” and “[Retirement Toolbox](#).” By the time the Forums are over in September, there are an estimated 15,000 attendees.

Executives from members of the troubled airline industry testify on Capitol Hill about underfunded pension plans. During the same hearing, PBGC officials tell Congress that they expect their deficit to increase threefold in the next decade.

**July:**

Proposed amendments to regulations regarding the use of electronic media to provide employee notices and elections are published.

This is the calm before the storms.

**August:**

[Rev. Proc. 2005-66](#), describing the new staggered remedial amendment cycle, is issued. The long process of redesigning the determination letter program is nearing fruition.

Katrina. What more is there to say that hasn't already been said about this tragedy?

**September:**

The storms keep coming: After Katrina leaves, Rita and Wilma bring even more damage to the battered US Gulf Coast. By the time the official hurricane season ends, there will be more named storms and more hurricanes than ever before.

In response to hurricanes, the IRS, DOL and PBGC all issue various relief measures for victims of the affected areas.

1865: The number of Voluntary Compliance requests received by EP in FY 2005.

**October:**

EP posts new Retirement Plan Check-Ups. Now sponsors of [401\(k\) plans](#) and [403\(b\) plans](#) have a new tool to help them keep their plans in compliance.

IRS releases [Announcement 2005-80](#), which opens a one-time, limited-time offer for taxpayers to voluntarily come forward and resolve certain listed and potentially abusive transactions. Certain retirement plan-related transactions are included.

Flat or Fizzy: EP announces the COLAs for [2006 retirement plan limits](#). There is, again, much rejoicing.

**November:**

Carol Gold, Director of EP, announces that EP is stepping up its enforcement of employers who don't properly fund their pension plans. Ms. Gold also states that EP will refer cases of egregious underfunding to DOL for additional enforcement.

In [Rev. Proc. 2005-76](#), EP gives plan sponsors affected by the *Heinz* case another year – until January 1, 2007 – to make reforming amendments to those plans with suspension of benefit provisions that improperly reduced accrued benefits. This modifies [Rev. Proc. 2005-23](#).

The main IRS web site and the Retirement Plans Community web page are redesigned based on customer feedback. Visitors will now find better search results, easier navigation and updated graphics. Again, there is much rejoicing out on the world-wide web.

**December:**

Various pension-related legislation continues to be debated in Congress.

IRS announces a new user fee schedule for 2006.

Guidance, guidance and more guidance: EP issues rules on relative value regs, the 2005 Cumulative List and there's more in the pipeline. •

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## **16<sup>th</sup> Annual SWBA/IRS Conference Recap**

The SouthWest Benefits Association (SWBA), in association with the IRS, presented the 16<sup>th</sup> Annual SWBA/IRS Employee Benefits Conference in Dallas, on October 24-25.

This conference was the first opportunity for the practitioner community to hear from Joseph Grant, the new EP Director of Rulings & Agreements. Among the topics discussed at this year's conference were:

- Final 401(k) Regs;
- Update on Roth 401(k);
- 409A Nonqualified Deferred Compensation Plans;
- EP Examinations and Enforcement Activities; and
- EPCRS.

Each year, SWBA and IRS also cosponsor administrative skills workshops in Dallas, Tulsa, and Houston during February.

For more information on the workshops or for information on next year's conference, call SWBA at (214) 382-3035, or visit their web site at [www.swba.org](http://www.swba.org). •

## Employee Plans Published Guidance

(October 2005 – December 2005)

### Revenue Rulings

#### [Rev. Rul. 2005-72](#)

Contains the covered compensation tables for 2006.

### Revenue Procedures

#### [Rev. Proc. 2005-76](#)

Extends the period in [Rev. Proc. 2005-23](#) by one year.

### Notices

#### [Notice 2005-84](#)

Extends the October 31, 2005, date in [Notice 2005-60](#) to February 28, 2006, for purposes of Title I and Title IV of ERISA as a result of section 403(b) of KETRA.

#### [Notice 2005-87](#)

Describes a provision of the final regulations under section 415 of the Code that will be changed.

#### [Notice 2005-92](#)

Provides technical guidance with respect to sections 101 and 103 of the Katrina Emergency Tax Relief Act of 2005.

#### [Notice 2005-95](#)

Clarifies the interaction of the amendment timing deadlines for plans and provides transitional relief from certain of those deadlines by giving additional time to adopt required amendments.

#### [Notice 2005-101](#)

Contains the 2005 Cumulative List of Changes in Plan Qualification Requirements.

### Announcements

#### [Announcement 2005-59](#)

Contains a list of approved non-bank trustees as of 12/31/2004.

#### [Announcement 2005-70](#)

Provides broad-based relief as a result of Hurricane Katrina.

#### [Announcement 2005-80](#)

Opened the ATAT Settlement Initiative.



## Benefits Conference of the South

ASPPA and the IRS announce the Benefits Conference of the South on March 20-21, 2006 in Atlanta. This inaugural event is an opportunity to network with colleagues and listen to experts from private industry, IRS, and Department of Labor discuss employee benefit issues.

Featured speakers at this event will include:

- Steve Miller, Commissioner, Tax Exempt & Government Entities;
- Michael Julianelle, Director, EP Examinations;
- Marty Pippins, Manager, EP Technical Guidance & Quality Assurance;
- Lisa Mojiri-Azad, Office of Division Counsel/Associate Chief Counsel, TE/GE;
- William Bond, Manager, EP Voluntary Compliance, Gulf Coast; and
- Dan Hogans, Attorney Advisor, Office of Benefits Tax Counsel.

Featured sessions will include:

- Washington Update;
- EP and DOL Examination and Enforcement Activities;
- Roth 401(k) Update and Final 401(k) Regs;
- Update on Defined Benefit Plans;
- 409A Nonqualified Deferred Compensation Plans; and
- EPCRS.

Throughout the conference, you'll also find "Interactive Tables" staffed with IRS and DOL employees ready to answer your questions.

This inaugural Benefits Conference of the South will be held at the Crowne Plaza Atlanta Perimeter Hotel, in Atlanta, GA. To find out more about the conference and to register, please phone ASPPA at (703) 516-9300 or visit the [ASPPA web site](#).

## Ring in the New Year at the LABC

The IRS, ASPPA, the National Institute of Pension Administrators, and the Western Pension and Benefits Conference will host the 2006 Los Angeles Benefits Conference (LABC) at the Hilton Los Angeles/Universal City on January 26 - 27, 2006 with a Pre-Conference Workshop (Conversation with the IRS) on January 25. The conference will focus on discussing the current regulatory, legislative, administrative, and actuarial hot topics.

Highlights of the conference will include four IRS Interactive Tables staffed by IRS experts:

- Carol D. Gold, Director, Employee Plans;
- Michael Julianelle, Director, EP Examinations;
- Newell W. Kimlin, Senior Actuary, EP Examinations;
- Avaneesh Bhagat, EP VC Coordinator and Kevin Masushige, SCP and CAP Coordinator.

For more information regarding the conference, such as special hotel rates and airfares, and to register for the conference, visit the [ASPPA web site](#) or call them at (703) 516-9300.

IRS employees contributing to this edition of the *Employee Plans News* are:

**Dana Barry,**  
**Bob Bell,**  
**Craig Chomyok,**  
**Bob Henn,**  
**Kathy Herrmann,**  
**Ron Itzkowitz,**  
**Cathy Jones,**  
**Michael Julianelle,**  
**Teresita Laureano,**  
**Peter McConkey,**  
**Todd Newman,**  
**Greg Nix,**  
**Mark O'Donnell,**  
**Nancy Payne,**  
**Marty Pippins,**  
**Mike Rubin,**  
**John Schmidt,**  
**Brenda Smith-Custer,**  
and  
**Mikio Thomas**



## Calendar of EP Benefits Conferences

### UPCOMING EVENTS...

Name	Date(s)	Location	Co-Sponsor(s)	For Further Information, Please Contact
<b>Los Angeles Benefits Conference</b>	01/26/06-01/27/06	Los Angeles, CA	ASPPA, NIPA, WPBC & cooperating sponsors	<a href="http://www.asppa.org">www.asppa.org</a>
<b>Benefits Conference of the South</b>	03/20/06-03/21/06	Atlanta, GA	ASPPA	<a href="http://www.asppa.org">www.asppa.org</a>

### RECENT EVENTS...

Name	Date(s)	Location	Co-Sponsor(s)	For Information, See
<b>16<sup>th</sup> Annual SWBA/IRS Employee Benefits Conference</b>	10/24/05-10/25/05	Dallas, TX	Southwest Benefits Association (SWBA)	<i>EP Benefits Conferences Calendar at <a href="http://www.irs.gov/ep">www.irs.gov/ep</a></i>
<b>Central &amp; Mountain Sts. Benefits Conference</b>	09/12/05-09/13/05	Denver, CO	ASPPA and WPBC	
<b>Northeast Benefits Conference</b> (2 Locations)	06/09/05-06/10/05	Framingham, MA & White Plains, NY	ASPPA & NE Area Pension Liaison Group	
<b>18<sup>th</sup> Annual Cincinnati Employee Benefits Conference</b>	06/09/05-06/10/05	Cincinnati, OH	Cincinnati Bar Association	
<b>Mid-Atlantic Benefits Conference</b>	05/23/05-05/24/05	Philadelphia, PA	ASPPA	
<b>Great Lakes Benefits Conference</b>	05/05/05-05/06/05	Chicago, IL	ASPPA & cooperating sponsors	